



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

April 6, 1994

Ms. Martha Agee
Assistant City Attorney
City of Waco
P. O. Box 2570
Waco, Texas 76702-2570

OR94-170

Dear Ms. Agee:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act (the "act"), Government Code chapter 552 (formerly V.T.C.S. article 6252-17a).¹ Your request was assigned ID# 21948.

The City of Waco (the "city") received a request for the following information:

1. A record of a report made by . . . [a particular individual at a particular address] to the City of Waco Action Center, including but not limited to phone calls on July 21 and July 26.
2. A copy of any correspondence from the city to . . . [a particular individual].

You raise section 3(a)(1) of former V.T.C.S. article 6252-17a, which is now codified in the Government Code at section 552.101, in conjunction with the informer's privilege. Section 552.101 excepts from required public disclosure information that is confidential by law, either constitutional, statutory, or by judicial decision. This provision incorporates the informer's privilege. See *Aguilar v. State*, 444 S.W.2d 935, 937 (Tex.

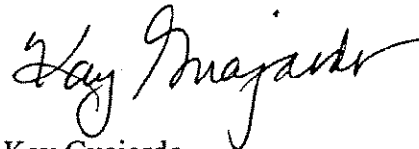
¹We note that the Seventy-third Legislature repealed V.T.C.S. article 6252-17a. Acts 1993, 73d Leg., ch. 268, § 46. The Open Records Act is now codified in the Government Code at chapter 552. *Id.* § 1. The codification of the Open Records Act in the Government Code is a nonsubstantive revision. *Id.* § 47.

Crim. App. 1969). The informer's privilege protects the identity of persons who report violations of the law to those charged with the responsibility of enforcing that law.

In this instance, however, the informer disclosed his identity to the requestor. Because the requestor already knows the informer's identity, the informer's privilege does not apply. *See* Open Records Decision No. 208 (1978). Thus, you may not withhold the requested information pursuant to section 552.101 of the Government Code.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please contact this office.

Yours very truly,

A handwritten signature in black ink, appearing to read "Kay Guajardo". The signature is fluid and cursive, with the first name "Kay" written in a larger, more prominent script than the last name "Guajardo".

Kay Guajardo
Assistant Attorney General
Open Government Section

KHG/rho

Ref.: ID# 21948

Enclosures: Submitted documents

cc: Mr. Brian Blansett
Waco Tribune-Herald
900 Franklin Avenue
Waco, Texas 76701
(w/o enclosures)